

# COUNTY OF YORK

## MEMORANDUM

**DATE:** August 14, 2001 (BOS Mtg. 8/21/01)

**TO:** York County Board of Supervisors

**FROM:** James O. McReynolds, County Administrator

**SUBJECT:** Application No. ZM-59-01 (conditional), James L. Clayton

### ISSUE

This application requests to amend the York County Zoning Map by reclassifying approximately 3.76 acres located at the northeast corner of the intersection of Dare Road (Route 621) and Allens Mill Road (Route 655) from RR (Rural Residential) to R20 (Medium-density single family residential), subject to voluntarily proffered conditions.

### DESCRIPTION

- Property Owner: Frances B. Riley (estate)
- Location: Northeast corner of the intersection of Dare Road and Allens Mill Road
- Area: Approximately 3.76 acres
- Frontage: Approximately 730 feet on Dare Road (Route 621) and approximately 200 feet on Allens Mill Road (Route 655)
- Utilities: Public sewer and water are available
- Topography: Generally flat with slopes to the east near the headwaters of Chisman Creek
- 2015 Land Use Map Designation: Low-density residential
- Zoning Classification: RR – Rural Residential
- Existing Development: None
- Surrounding Development:
  - North: Single-family detached home
  - East: Single-family detached homes
  - South: Vacant parcel, Providence United Methodist Church (across Dare Road)
  - West: Single-family detached homes (across Allens Mill Road)
- Proposed Development: Six-lot single-family detached residential subdivision

### CONSIDERATIONS/CONCLUSIONS

1. The property is located on the north side of Dare Road between the Millside subdivision to the west and the Mill Cove Estates subdivision to the east. The applicant has a contract to purchase the 3.76-acre parcel located at the intersection. Originally he also planned to purchase a 43 foot-wide strip of land measuring 12,159 square feet in area (the shaded area shown on the attached sketch plan), but after the application was considered by the Planning Commission he amended his proposal by limiting the rezoning to the 3.76-acre parcel.

Although surrounded on two sides by medium-density single family housing, this area is designated for Low-Density Residential development in the Comprehensive Plan, primarily because of its proximity to the headwaters of Chisman Creek.

2. Under the current zoning, a maximum of 3-4 lots would be permitted as a matter of right. The requested R20 zoning typically would yield a maximum of 7-8 lots; however, because of the wetlands and Resource Protection Area (RPA) in the eastern portion of the property, the more likely lot yield would be 6-7, not eight as asserted by the applicant in his proffer statement. The applicant has voluntarily proffered a maximum of six lots if this application is approved. Proposed lot sizes range from 0.46 acre to 1.21 acres, with an average lot size of 0.63 acre, which is comparable to lot sizes in the adjacent Millside (0.54 acre) and Mill Cove Estates subdivisions (0.65 acre).
3. The applicant has voluntarily proffered four conditions as part of this application:
  - A paved private lane will be constructed that will provide access to the six lots off of Allens Mill Road.
  - A wooden privacy fence will be installed along Dare Road beginning at Allens Mill Road and extending the entire length of the property.
  - The property will be subdivided into a maximum of six lots rather than the seven or eight that might otherwise be permitted if this application were approved.
  - There will be no access from the proposed lots to Dare Road.

As proposed by the applicant, the homes would front a private driveway and back up to Dare Road, separated from the road by a privacy fence. The privacy fence would serve to screen the homes from Dare Road, providing an aesthetically pleasing streetscape along this corridor. The developer also would establish an easement along Dare Road prohibiting access to the road.

4. The property has sufficient frontage on Dare Road for a maximum of four driveways under the current RR zoning, where the minimum lot width is 150 feet. Dare Road is a major collector road and thus is not desirable or appropriate for individual driveway access. Unfortunately, however, the County is not able to prohibit a developer from subdividing the parcel and establishing driveways on Dare Road for each lot. Section 20.5-98(c)(1) of the Subdivision Ordinance specifically entitles each lot created adjacent to a major collector road to have individual access to that road. The only way to

prevent direct driveway access onto Dare Road is for the developer to do it voluntarily. This can be achieved through the approval of this application subject to the proffered conditions.

5. The property abuts the headwaters of Chisman Creek, which feeds into the Chesapeake Bay. Accordingly, a portion of the property is in the Chesapeake Bay Resource Protection Area (RPA), and the remainder of the property is located in the Resource Management Area (RMA). Therefore, any development of the property will be subject to the provisions of the Environmental Management Area (EMA) overlay district. According to the applicant's sketch plan, the RPA affects only one of the proposed lots (Lot 6), and there appears to be sufficient developable land area outside of the RPA to accommodate a home site on this lot. However, it should be noted that the proposal to add a private lane as well as two or three rooftops and driveways that would not be permitted under the current zoning, is somewhat inconsistent with the Chesapeake Bay Preservation Act goals with regard to minimizing impervious cover in proximity to the Bay and its tributaries.
6. If the application is approved, the private lane will have to be designed to accommodate the turning radius and weight of large fire and rescue apparatus. In addition, the developer will be required to extend the water line down the private lane and provide a fire hydrant.

#### **PLANNING COMMISSION RECOMMENDATION**

The Planning Commission considered this application at its regular meeting on July 11, 2001 and, subsequent to conducting a public hearing at which five citizens spoke in opposition to the application, voted 5:2 (Messrs. Heavner and Simasek dissenting) not to recommend approval.

Citizen concerns dealt with the proposed increase in density and potential impacts on Chisman Creek. In addition, neighbors opined that the proposal to subdivide the adjacent 12,159-square foot strip of land to the north would violate restrictive covenants that were applied to this parcel when it was originally subdivided in 1978. Staff responded that the County has no authority to enforce restrictive covenants but that even if it did, the covenants do not appear preclude the proposed use of that land. Subsequent research by the Planning staff and the County Attorney has not altered that conclusion. Nevertheless, the applicant has modified the application by deleting this 12,159-square foot strip of land from the proposed rezoning. Instead, he plans to establish a thirty-foot (30') easement across the adjacent property for the purpose of constructing the private drive.

One adjacent property owner whose home is across the street from the subject parcel expressed concern that the private drive would be directly opposite her driveway, creating a possible safety hazard. Further research has determined that the private drive actually will be located approximately seventy feet (70') south of the citizen's driveway and therefore will not create a point of conflict.

#### **COUNTY ADMINISTRATOR RECOMMENDATION**

This application involves a distinct tradeoff. The issue before the Board is whether the traffic benefits of prohibiting driveways along this 730-foot segment of Dare Road outweigh the adverse impact of a small increase in density (and environmental issues related to density).

Dare Road is a two-lane, undivided highway that functions as a major collector road carrying approximately 3,100 vehicles per day. Although Dare Road currently operates at an acceptable level of service, traffic will grow in the future as development continues in Dare. Traffic congestion can be addressed in several ways. New through lanes add capacity and enhance safety but can be very costly and time-consuming and in an area like Dare could have negative environmental consequences. Spot improvements, such as turn lanes at major intersections (as is planned on Lakeside Drive) are less costly and can be very effective but also can be very time-consuming. Access management, in contrast, offers an engineering solution that involves little or no expense to the taxpayers and requires no assistance or approval from VDOT. Traffic is channeled to strategic locations where turning movements can be more easily accommodated without impeding the flow of through traffic. I view this rezoning application as an opportunity to help preserve the carrying capacity of Dare Road through sound, cost-effective, access management. Although the impact of three or four driveways on traffic congestion and safety may be marginal, so too is the negative impact of two or three additional homes, and I believe that it is an acceptable tradeoff. Moreover, the proposed lot sizes are compatible with surrounding development, and the impact of two or three additional homes on County services and infrastructure is negligible. I do not believe that approval of this application would set a precedent for further increases in density along Allens Mill Road. The subject property involves a unique set of circumstances which do not apply to nearby properties that are zoned RR, most of which are already developed. For these reasons, I recommend that the Board approve this application subject to the proffered conditions. This can be accomplished through the adoption of proposed Ordinance No. 01-18.

Carter/3337

Attachments

- Excerpts of approved Planning Commission minutes, July 11, 2001
- Zoning Map
- Sketch plan
- Proffer Statement
- Proposed Ordinance No. 01-18

Copy to.      James L. Clayton